

SENATE BILL No. 520

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-2-7.

Synopsis: Office of inspector general. Creates the office of inspector general to investigate various activities of the office of the secretary of family and social services, the department of administration, the department of correction, the department of workforce development, and the bureau of motor vehicles. Creates a nominating committee to make recommendations to the governor on the appointment of the inspector general.

Effective: July 1, 2005.

Drozda

January 18, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 520

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-2-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:

4 **Chapter 7. Inspector General**

5 **Sec. 1. As used in this chapter, "committee" refers to the**
6 **nominating committee established by section 5 of this chapter.**

7 **Sec. 2. As used in this chapter, "office" refers to the office of the**
8 **inspector general established by section 4 of this chapter.**

9 **Sec. 3. As used in this chapter, "vacancy" refers to an opening**
10 **in the position of inspector general that occurs because of the:**

11 (1) death;

12 (2) retirement;

13 (3) resignation;

14 (4) removal; or

15 (5) expiration of term without reappointment;
16 **of the inspector general.**

17 **Sec 4. (a) The office of the inspector general is established.**



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(b) The office shall be administered by the inspector general, who shall be appointed by the governor under section 6 of this chapter.

(c) The inspector general:

(1) serves at the pleasure of the governor; and

(2) receives compensation set by the governor and approved by the budget agency.

Sec. 5. (a) A nominating committee is established to recommend to the governor names of qualified persons to fill the position of inspector general.

(b) The committee consists of the following members:

(1) Three (3) members appointed by the governor.

(2) One (1) member appointed by the president pro tempore of the senate.

(3) One (1) member appointed by the speaker of the house of representatives.

(4) One (1) member appointed by the minority leader of the senate.

(5) One (1) member appointed by the minority leader of the house of representatives.

Not more than four (4) members of the committee may belong to the same political party. A member of the general assembly may not serve as a member of the committee.

(c) Each appointing authority shall certify the appointments of the appointing authority to the secretary of state not later than ten (10) days after making the appointments.

(d) The term of a member of the committee is four (4) years, beginning on the date the member's appointment is certified to the secretary of state.

(e) The governor shall appoint a member of the committee to serve as the chairperson of the committee.

(f) Whenever a vacancy occurs on the committee, the chairperson of the committee shall notify the appointing authority who appointed the member whose position is vacant. The appointing authority shall appoint a new member not later than sixty (60) days after receiving notice of the vacancy. The term of the member appointed to fill a vacancy is for the unexpired term of the member whose position was vacated. An appointment to fill a vacancy must be certified to the secretary of state not later than ten (10) days after the appointment.

(g) After the names of members appointed to the committee have been certified to the secretary of state, the secretary of state

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shall, by regular mail, notify the committee members of the appointments.

(h) A member of the committee serves until the member's successor is appointed. A member may not be appointed to two (2) successive terms. However, if the member has been appointed to fill a vacancy on the committee for a period of less than three (3) years, the member is eligible to be appointed for one (1) succeeding term.

(i) The committee shall meet on the call of:

(1) the chairperson; or

(2) any four (4) members of the committee.

Notice of a committee meeting must be given to each member of the committee by written notice mailed at least five (5) days before the date of the meeting. The notice must contain the date, time, and place of the meeting. Notice of a meeting is not required if the committee designated the date, time, and place of the next meeting at its previous meeting.

(j) Four (4) members of the committee constitute a quorum. The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure. The committee may adopt rules under IC 4-22-2 for the conduct of its proceedings and the discharge of its duties. The rules must include procedures by which eligible candidates for a vacancy in the office may submit their names to the committee.

(k) Each member of the committee is entitled to receive the minimum salary per diem as provided in IC 4-10-11-2.1(b) while performing the member's duties. A member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(l) The committee may employ investigators and other experts that the committee considers necessary to carry out the functions and purposes of the committee. The governor's office shall provide staff for the committee.

(m) The expenses of the committee shall be paid from appropriations made to the office.

Sec. 6. (a) If the position of inspector general becomes vacant, the governor shall notify the chairperson of the committee of the vacancy. The chairperson shall call a meeting of the committee not later than ten (10) days after the notice.

(b) The committee shall consider applicants for inspector

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general who have significant experience in:

(1) law enforcement, including:

(A) a local police department;

(B) a state police department; or

(C) the Federal Bureau of Investigation; or

(2) finance or procurement in government or the private sector.

(c) The committee shall submit a list of three (3) candidates to fill the vacancy and certify them to the governor not later than forty (40) days after the date the vacancy occurs.

(d) If it is known that a vacancy may occur at a definite future date, the governor may notify the committee immediately of the pending vacancy. The committee may, not later than sixty (60) days after the notice, submit to the governor the names of three (3) candidates for the pending vacancy.

(e) The committee shall submit a written evaluation, including:

(1) an appraisal of previous work experience;

(2) a summary of references; and

(3) information on the ranking of each candidate in relation to the other candidates;

of each candidate to serve as inspector general to the governor.

(f) A list of candidates submitted to the governor may be publicly disclosed by the committee. The evaluations of candidates whose names have been submitted to the governor are confidential.

(g) The governor may:

(1) appoint to the office one (1) of the three (3) candidates on the list submitted to the governor by the committee for the vacancy; or

(2) reject all the candidates.

If the governor rejects all the candidates, the governor shall notify the chairperson of the committee, and the committee shall certify the names of three (3) additional candidates to the governor not later than forty (40) days after receipt of the notice. The governor shall fill the vacancy by appointing one (1) of the candidates on the additional list of candidates.

Sec. 7. (a) The inspector general may appoint one (1) or more deputy inspectors general. Each deputy inspector general:

(1) serves at the pleasure of the inspector general; and

(2) shall perform duties that are assigned by the inspector general.

Deputy inspectors general are state employees under IC 4-15-2.5. Salaries for deputy inspectors general shall be set by the inspector

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1 general with the approval of the budget agency.

2 (b) The inspector general may appoint professional, technical,
3 and clerical employees necessary for the effective and efficient
4 operation of the office. Employees appointed by the inspector
5 general under this subsection are state employees under
6 IC 4-15-2.5. Salaries for employees appointed by the inspector
7 general shall be set by the inspector general with the approval of
8 the budget agency.

9 Sec. 8. The inspector general may:

- 10 (1) adopt an official seal;
- 11 (2) adopt rules under IC 4-22-2 for the conduct of the business
- 12 of the office;
- 13 (3) make and execute:
- 14 (A) contracts; or
- 15 (B) agreements;
- 16 with any governmental agency or person to accomplish the
- 17 purposes of this chapter; and
- 18 (4) recommend legislation to the governor and general
- 19 assembly.

20 Sec. 9. (a) The inspector general shall do the following:

- 21 (1) Manage the office.
- 22 (2) Investigate the management and operation of the:
- 23 (A) office of the secretary of family and social services;
- 24 (B) Indiana department of administration;
- 25 (C) department of correction;
- 26 (D) department of workforce development; and
- 27 (E) bureau of motor vehicles;
- 28 on the inspector general's own initiative to determine whether
- 29 acts and omissions have been committed by the agencies or
- 30 employees of the agencies listed in this subdivision.
- 31 (3) Receive complaints alleging wrongful acts and omissions.
- 32 (4) Determine whether a complaint received under
- 33 subdivision (3) alleges facts giving reasonable cause to
- 34 investigate.
- 35 (5) After investigating a complaint received under subdivision
- 36 (3), determine whether there is reasonable cause to believe
- 37 that the act or omission alleged in the complaint has been
- 38 committed or is being committed by an officer or employee of
- 39 an agency listed in subdivision (2).
- 40 (6) Report suspected crimes and wrongful acts or omissions
- 41 committed by officers or employees of the agencies listed in
- 42 subdivision (2) to the:

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- 1 (A) governor; and
 2 (B) appropriate state or federal prosecuting authority with
 3 jurisdiction over the matter, if there is reasonable cause to
 4 believe that a crime has occurred or is occurring.
 5 (7) If appropriate, report a wrongful act or omission to the:
 6 (A) state ethics commission under IC 4-2-6;
 7 (B) appointing authority or officer of the agency; and
 8 (C) appropriate licensing agency, if applicable;
 9 for possible disciplinary action against the officer or employee
 10 of an agency listed in subdivision (2) who is believed to have
 11 committed the wrongful act or omission. However, the
 12 inspector general may not report a wrongful act or omission
 13 to an appointing authority of an agency under this subdivision
 14 if the appointing authority allegedly committed or is
 15 committing the wrongful act or omission.
 16 (8) Report suspected crimes and wrongful acts or omissions
 17 that the inspector general becomes aware of in connection
 18 with an investigation of the agencies listed in subdivision (2)
 19 and that were or are being committed by individuals who are
 20 not state officers or state employees to:
 21 (A) the governor; and
 22 (B) other appropriate state or federal prosecuting
 23 authorities with jurisdiction over the matter, if there is
 24 reasonable cause to believe that a crime has occurred or is
 25 occurring.
 26 However, the inspector general may not report a wrongful act
 27 or omission to an individual under this subdivision if the
 28 individual allegedly committed or is committing the wrongful
 29 act or omission.
 30 (9) Prepare a detailed report of each investigation that states:
 31 (A) the basis for the investigation;
 32 (B) the action taken in furtherance of the investigation;
 33 and
 34 (C) whether the investigation revealed that there was
 35 reasonable cause to believe that a wrongful act or omission
 36 had occurred.
 37 (10) Identify other state agencies that also are responsible for:
 38 (A) investigating;
 39 (B) auditing;
 40 (C) reviewing; or
 41 (D) evaluating the management and operation of the
 42 agencies listed in subdivision (2);

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and enter into agreements with the identified agencies to share information in order to avoid duplication of efforts.

(11) Develop and update for the inspector general's guidance and the guidance of deputy inspectors general:

(A) a definition of a "wrongful act or omission"; and

(B) a manual of investigative techniques.

(12) Conduct studies of techniques of:

(A) investigation;

(B) detection; and

(C) prevention or reduction of the risk;

of wrongful acts and omissions by officers or employees of the agencies listed in subdivision (2).

(13) Consult with the agencies listed in subdivision (2) and advise the agencies in:

(A) developing;

(B) implementing; and

(C) enforcing;

policies and procedures that will prevent or reduce the risk of wrongful acts and omissions within those agencies.

(14) After detecting a wrongful act or omission, review and evaluate the relevant policies and procedures of the agencies listed in subdivision (2), recommending changes that should be made in policies and procedures to prevent recurrences of similar wrongful acts or omissions.

(b) If a wrongful act or omission is identified during an investigation under subsection (a), the report required by subsection (a)(9) must:

(1) identify the individual who committed the wrongful act or omission;

(2) describe the wrongful act or omission;

(3) explain how the wrongful act or omission was detected;

(4) indicate to whom the wrongful act or omission was reported; and

(5) describe what the agency in which the wrongful act or omission was being committed is doing to change its policies or procedures to prevent recurrences of similar wrongful acts or omissions.

Sec. 10. (a) In performing an investigation, the inspector general and deputy inspectors general may:

(1) administer oaths;

(2) examine witnesses under oath; and

(3) issue subpoenas and subpoenas duces tecum to compel the

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attendance of witnesses and the production of:

- (A) books;
- (B) records;
- (C) papers; and
- (D) other tangible things.

(b) The inspector general and deputy inspectors general shall apply to a court for a contempt order if:

- (1) a witness refuses to be sworn;
- (2) a witness refuses to answer questions; or
- (3) an individual disobeys a subpoena.

Sec. 11. Not later than March 1 each year, the inspector general shall publish an annual report summarizing the activities of the office during the previous calendar year. The annual report may not disclose the results of an investigation if the results are designated as confidential by the inspector general. Copies of the annual report shall be sent to the governor and the general assembly. The report sent to the general assembly must be in an electronic format under IC 5-14-6.

Sec. 12. (a) The inspector general or deputy inspectors general shall prepare a report on each investigation conducted by the inspector general or deputy inspectors general. With the written approval of the inspector general, all or part of a report prepared under this section may be designated as confidential if doing so:

- (1) preserves the confidentiality of matters made confidential by law;
- (2) appears reasonably necessary to protect the safety of a witness; or
- (3) avoids disclosure of investigative techniques that, if disclosed, would enable individuals who have been or are committing wrongful acts or omissions to avoid detection.

Material designated as confidential under this section shall be marked clearly as being confidential.

(b) The inspector general shall provide a copy of each report of an investigation prepared under this section, including wholly and partially confidential reports, to the following:

- (1) The governor.
- (2) A prosecuting authority who may undertake criminal prosecution of a wrongful act or omission described in the report.
- (3) The state ethics commission.

(c) The inspector general may not provide a copy of a confidential part of the report of an investigation to an individual

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1 under this section if the individual committed the wrongful act or
 2 omission described in the report.

3 (d) The:

- 4 (1) governor;
- 5 (2) prosecuting authority;
- 6 (3) state ethics commission;
- 7 (4) licensing agency;
- 8 (5) appointing authority; or
- 9 (6) public or private employer;

10 who receives a report, all or part of which is designated as
 11 confidential, shall take all appropriate measures necessary to
 12 preserve the confidentiality of the report.

13 SECTION 2. [EFFECTIVE JULY 1, 2005] (a) Procedures for
 14 filling vacancies in the position of inspector general under
 15 IC 4-2-7-6, as added by this act, shall be followed in making the
 16 initial appointment of inspector general.

17 (b) This SECTION expires December 31, 2005.

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